

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : ORDER
- v. - : S6 15 Cr. 867 (RMB)
TÜRKİYE HALK BANKASI A.S., :
a/k/a "Halkbank," :
: Defendant.
: ----- x -----

WHEREAS a federal grand jury sitting in the Southern District of New York returned a superseding indictment against TÜRKİYE HALK BANKASI A.S., a/k/a "Halkbank" (referred to herein as "Halkbank"), which was filed on October 15, 2019 (the "Indictment");

WHEREAS the Court issued a summons to Halkbank to appear before the Court for an arraignment on October 22, 2019, at 9:15 a.m. (the "First Summons");

WHEREAS the law firm of King & Spalding LLP ("King & Spalding") submitted a letter to the Court dated October 18, 2019, in which King & Spalding indicated that it had received the summons on October 16, 2019, and wrote that "[a]lthough King & Spalding has represented Halkbank in connection with the Department of Justice's prior investigation regarding Halkbank, at no point has King & Spalding been authorized to accept service of a summons or other legal process on behalf of Halkbank" and "are not authorized to make an appearance in this case;"

WHEREAS the Court held a conference in this matter on October 22, 2019 (the "First Conference"), at which Halkbank did not appear, through counsel or otherwise;

WHEREAS, the Court issued an order dated October 23, 2019 (the "Order"), finding that the Government has properly served the First Summons and the Indictment on

Halkbank and that Halkbank has willfully and knowingly disobeyed the Court's order in the First Summons to appear at the First Conference;

WHEREAS, on October 23, 2019, the Court issued a summons (the "Second Summons") directing Halkbank to appear for an arraignment on November 5, 2019;

WHEREAS, the Government served the Second Summons and Indictment on Halkbank by electronic delivery to Halkbank, King & Spalding, and a representative of the Turkish Ministry of Treasury and Finance; and attempted to deliver the Second Summons and Indictment by commercial carrier to Halkbank's Legal Department at its principal place of business in Istanbul, Turkey but delivery was refused;

WHEREAS, King & Spalding delivered a letter to the Court dated November 4, 2019, requesting permission to make a special and limited appearance on behalf of Halkbank;

WHEREAS, Andrew Hruska, Esq., William Johnson, Esq., Richard Walker, Esq., and Jacob Gerber, Esq., attorneys with King & Spalding, attended the court appearance on November 5, 2019 (the "Second Conference"), denied that they were entering an appearance on behalf of Halkbank, and requested permission to make a special and limited appearance on behalf of Halkbank;

WHEREAS, the Court finds, based on the foregoing, that, pursuant to Federal Rule of Criminal Procedure 4(c)(3)(D)(ii), that the Second Summons and Indictment have been served on Halkbank and that Halkbank had actual knowledge of the Second Conference;

WHEREAS, that Halkbank's request for counsel to make a special and limited appearance was denied on December 5, 2019 (by Decision & Order, dated December 5, 2019, incorporated here by reference);

IT IS HEREBY ORDERED that a hearing will be held in this matter on

February 10, 2020, at 10:00 a.m. at which Halkbank shall show cause why it should not be held in contempt of the First Summons and the Second Summons and contempt sanctions imposed;

IT IS FURTHER ORDERED that, should counsel of record enter an appearance on behalf of Halkbank prior to the date of the hearing, Halkbank shall be arraigned on the Indictment forthwith, i.e. as soon as practicable following such appearance;

IT IS FURTHER ORDERED that the Government shall submit briefing regarding a contempt finding and contempt sanctions on or before noon on January 3, 2020; Halkbank, if appearing through counsel of record, shall submit briefing regarding a contempt finding and contempt sanctions on or before noon on January 21, 2020; and the Government may submit a reply on or before 5:00 p.m. on January 23, 2020;

IT IS FURTHER ORDERED that the direct testimony of any witness(es) to be called at the hearing shall be submitted by affidavit (10 pages, double spaced) 10 days prior to the hearing. Cross examination and re-direct shall be "live";

IT IS FURTHER ORDERED that the Government will serve this Order on Halkbank forthwith following the issuance of this Order by any means specified in the Federal Rules of Criminal Procedure, including the same way the first or second summons was served; and

IT IS FURTHER ORDERED that, the Government will serve this Order, the Second Summons, and the Indictment on Halkbank forthwith following of the issuance of this Order, by any means specified under Federal Rule of Criminal Procedure 4.

SO ORDERED:



HONORABLE RICHARD M. BERMAN
UNITED STATES DISTRICT JUDGE

12/9/2019

Date